

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JEROME SMITH,

Plaintiff,

v.

CONTINENTAL EXPRESS AIRLINES,

Defendant.

:
:
:
:
:
:
:
:
:

Case No. 1:08CV1087

JUDGE KATHLEEN O'MALLEY

ORDER

This action was filed on April 29, 2008. In it, plaintiff Jerome Smith asserts an employment discrimination claim against his former employer, defendant ExpressJet Airlines, Inc., dba “Continental Express” (“ExpressJet”) under federal law. ExpressJet filed a Motion to Dismiss Smith’s action on August 11, 2008 (Doc. 9). That motion is unopposed and is now ripe for the Court’s consideration.

ExpressJet moves to dismiss on timeliness grounds. As ExpressJet notes, Smith was discharged from his employment on February 12, 2006, but did not file a charge of discrimination until January 17, 2008, almost two years later. The Equal Employment Opportunity Commission dismissed Smith’s charge as untimely.

Again as ExpressJet notes, plaintiff had 300 days after the allegedly unlawful activity – in this case his allegedly discriminatory discharge – in which to file a claim. He simply did not do so. Since a timely filed administrative charge is a prerequisite to asserting a claim of discrimination under Title VII (42 U.S.C. § 2000e-5(e)(1)), this action must be dismissed. *See EEOC v. Wilson*

Metal Casket Co., 24 F.3d 836, 839 (6th Cir. 1993).

For these reasons, ExpressJet's Motion to Dismiss is hereby **GRANTED** and this action is **DISMISSED**, with prejudice.

IT IS SO ORDERED.

s/Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Dated: September 24, 2008